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EXAMINER

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/487,265
Filing Date: January 19, 2000
Appellant(s): MORI ET AL.

J. Randall Beckers
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 11/30/05 appealing from the Office action mailed 4/21/05.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,907,490	OLIVER	5-1999
6,092,048	OLIVER	7-2000

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 6-8, 15-18, 21, 22-23, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oliver (US Patent 5,907,490), in further view of Nakaoka (US Patent 6,092,048).

As per claims 1, 6, 15, 16, 17, 21, 29, Oliver discloses:

[An acquisition unit/a first program part for] transmitting the job completion data messages to a plurality of receivers of the group and receiving each completion date

offer that is entered by the receivers/an acquisition unit transmitting a job completion message and receiving a job completion reply from persons in a group who have been assigned part of a job and obtaining information indicating whether each of a plurality of receivers of a message, who in a group do a job associated with the message, has completed an assigned part of the job; (Col. 6, lines 34-42, w/ Col. 7, lines 11-22, where the graphical user interface and touch screen represents the acquisition unit and helps complete EV analysis, Col. 3, lines 30-37, where EV analysis helps measure wheat has been accomplished on a project, Col. 7, lines 61-62, where the transmission of a job completion message is represented by presentation of initial EV information, which includes percent complete information as shown in Col. 8, lines 21-29, also Col. 8, line 67-Col. 9, line 4, where the job completing message transmitted is represented by the user clicking on the number on the screen in order to receive percent of project complete information, in addition, Col. 9, lines 4-9 shows the job completion reply since a response about the percent of a project completed is disclosed);

[A control unit/a second program part/ the control unit causes the apparatus to display], causing a terminal device of the transmitter apparatus at the transmitter of the message to display the completion date offers of the receivers together with a decision result with respect to the completion date offers of the receivers/ a control unit, based on the information obtained by the acquisition unit, causing a terminal apparatus to display information indicating a ratio of persons who have received the message and completed the assigned parts of the job to all the persons who have received the message and have been assigned the parts of the job, (Col. 7, lines 5-10 and lines 38-

41, where the control unit and the second program part is represented by the EV analyzer program in the computer, Col. 8, lines 21-29, where Oliver discloses the "ratio" through disclosing EV-related information pertaining to the percent complete, w/ Col. 2, lines 52-56, displays accomplished results to planned results. In Oliver, the "ratio" is disclosed to be the percentage of the project completed based on earned value for the work performed to the total project baseline. In this case, even though the percentage of the project completed is determined through the earned value, the percentage of the project completed is still determined and represents the completed assigned parts of the job. In addition, the total project baseline represents the all assignments in the job. Therefore Oliver's "ratio" is analogous to the "ratio" of the claimed invention, (Col. 2, lines 52-56, displaying comparison of accomplished results to planned results).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to disclose the ratio of persons who have completed the respectively assigned parts of the job amongst all the plurality of receivers of the message doing the job with the motivation of determining which jobs are complete and which jobs are incomplete for assignment purposes.

Oliver does not specifically disclose a message generation unit, but does disclose an indication that a job is complete in Col. 8, lines 21-29.

However, Nakaoka discloses:

A message generation unit generating a job completion date message to which attached is an entry space for entering a completion date offer indicating a completion date a receiver of a group who has been assigned to the job desires

Art Unit: 3628

to agree to place in the completion date offer entry space in the message, (Col. 1, lines 20-25, represented by the finish dates). Nakaoka discloses this limitation in an analogous art for the purpose of showing dates that the job has been completed.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to incorporate a message generation unit generating a job completion date message to which attached is an entry space for entering a completion date offer indicating a completion date a receiver of a group who has been assigned to the job desires to agree to place in the completion date offer entry space in the message with the motivation of giving the user the flexibility to enter a date that he feels that he can complete the job.

As per claims 2, 4, Oliver discloses the following:

Wherein the control unit causes the information indicating the ratio of the persons who have completed respectively assigned parts of the job to be displayed, (Col. 8, lines 21-29, where the ratio is represented by the EV-related information pertaining to the percent complete being displayed);

Oliver fails to disclose the following, however Nakaoka discloses:

together with a title of the message in response to one of a display request of a user and on fulfilling predetermined conditions... (Col. 4, lines 19-35, represented by the task title where "CREATE REPORT OF INVESTIGATION" represents the request of a user).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to incorporate having a title of the message in response to the request of a user with the motivation of actually displaying and allowing the user to visually distinguish one request from another. As per claims 4, 20, Oliver discloses:

Counts the number of receivers who have activated the confirmation button for causing the terminal apparatus to display the information indicating the ratio of the persons having completed the assigned parts of the job, (Col. 8, lines 21-29, Oliver doesn't specifically disclose the number of receivers who activate a confirmation button is counted, however the ratio is represented by the EV-related information pertaining to the percent complete being displayed and in order to determine the percent complete, one must determine a count for the number of tasks completed);

Oliver fails to disclose the following, however Nakaoka discloses:

A message generation unit generating a message provided with a confirmation button by which each receiver of the message can individually inform that the receiver has completed the assigned part of the job to the transmitter of the message; (Col. 13, lines 19-23, represented by the completion button);

Wherein the control unit judges when the confirmation button is activated by a receiver of the message that the receiver has completed the

assigned part of the job (Col. 13, lines 23-25, represented by placing the task entry in a completed state).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to incorporate a confirmation button with the motivation of having means to determine the number of users that completed the task.

As per claim 3, Oliver discloses:

Wherein the control unit causes the terminal apparatus to display a completion state table comprising information indicating the ratio of the persons who have completed the respectively assigned parts of the job among all the plurality of receivers of the message doing the job and the title of the message, (Col. 8, lines 21-29, where the ratio is represented by the EV-related information pertaining to the percent complete being displayed , Fig. 1, where this bar chart includes EV information that represents what has been accomplished as the project progresses. This chart also includes completion information as described in Col. 4, lines 23-41. Since Oliver describes that a chart can visually represent the ratio information about completed tasks, it is obvious to include the completion state ratio in a table since a chart represents information in tabular form).

As per claim 7, Oliver discloses:

Wherein the control unit causes the terminal apparatus to display the information indicating the ratio of the persons who have completed the assigned parts of the job when one of a specified date for completing is a current and

Art Unit: 3628

when the ratio of the persons who have completed the assigned parts of job reaches a preassigned value (Col. 8, lines 21-29, where the ratio is represented by the EV-related information pertaining to the percent complete being displayed and in order to determine the percent complete, one must determine a count for the number of tasks completed);

As per claim 8, Oliver discloses:

Wherein the control unit causes the terminal apparatus to display the information indicating the ratio of persons who have completed the assigned parts of the job on a day specified by a transmitter of the message in advance (Col. 8, lines 21-29, the ratio is represented by the EV-related information pertaining to the percent complete being displayed and in order to determine the percent complete, one must determine a count for the number of tasks completed.

As per claims 18, 23, Oliver discloses:

Further comprises/wherein the control unit causing the apparatus to display an offered term table comprising the name of a receiver, a new date offered term of a receiver, an approved or rejected status of the transmitter for the offer, (Col. 1, lines 20-32, shows use of Gantt and PERT charts to represent task data, shows task data includes start date, col. 3, lines 29-33, shows schedule status is implemented in EV information which can be implemented in the present invention through Gantt/PERT charts, Oliver does not specifically disclose the name of the receiver, however, this limitation is inherent with Oliver since Oliver does disclose tasks, and each task must be carried out by a user).

As per claims 22, Oliver discloses:

A message generation unit generating a message to which attached is a entry space for entering a completion date offer indicating a completion date each receiver desires to agree in place of the completion date stated in the message, (Col. 6, lines 34 46 and lines 57-62 w/ Col. 8, lines 21-29 where it is shown that the user can utilize the computer interface to input EV-related information which can include percent complete, in this case, the message generation unit is represented by the graphical user interface (GUI), also Col. 1, lines 20-25, where the completion date is also represented by the finish dates); and

A control unit causing a terminal apparatus to display in a table form the title of the message, names of a plurality of the receivers, the completion dates entered into the entry spaces attached to the message by the plurality of the receivers respectively together with a decision result with respect to the completion date offers of the receivers, (Col. 8, lines 21-29, where the ratio is represented by the EV-related information pertaining to the percent complete being displayed , Fig. 1, where this bar chart includes EV information that represents what has been accomplished as the project progresses. This chart also includes completion information as described in Col. 4, lines 23-41. Since Oliver describes that a chart can visually represent the ratio information about completed tasks, it is obvious to include the completion state ratio in a table since

a chart represents information in tabular form and where the control unit that causes the terminal to display is represented by the project management software which include the object link, Col. 9, lines 1-9, [ratio], w/ col. 2, lines 52-60, displaying accomplished results to planned results and facilitates quantification of costs and schedule impacts).

(10) Response to Argument

First, appellant argues that the prior art combination of Oliver and Nakaoka does not suggest the desirability that these teachings be combined, or do not suggest the desirability of the modifications. However, these references are properly combined since both are related to project/task management, where task data related to a project is managed by project management software. In addition, in many, if not most, situations, there is neither a motivation to make the modification clearly articulated in the references nor an evident lack of motivation. Rather, the prior art references typically disclose elements or aspects of the claimed subject matter, but fail to specifically point the way toward the combination, substitution or other modification needed to arrive at the invention. A judgment must be made whether "a person of ordinary skill in the art would have had sufficient motivation to combine the individual [elements] forming the claimed [invention]." *In re Clinton*, 527 F.2d 1226, 1228, 188 USPQ 365, 367 (CCPA 1976).

Appellant then argues that Oliver is a system for managing the "performance" of a project and, as a result, cares little about actual tasks or the scheduling of tasks, while

Art Unit: 3628

Nakaoka is a system for managing task support, that is to provide a worker information "during a task" and, as a result, cares little about task scheduling. Appellant argues that the present invention is about something in between these two; it is about task scheduling with the cooperation of the workers. However, the claims do not disclose task scheduling with the cooperation of workers. For example, independent claim 1 discloses "a message generation unit generating a job completion date message to which attached is an entry space for entering a completion date offer indicating a completion date a receiver of a group who has been assigned to the job desires to agree to place in the completion date offer entry space in the message", "an acquisition unit transmitting the job completion date messages to a plurality of receivers of the group and receiving each completion date offer that is entered by the receivers", and "a control unit causing a terminal device of the transmitter apparatus at the transmitter of the message to display the completion date offers of the receivers together with a decision result with respect to the completion date offers of the receivers". In this case, the tasks have not yet been scheduled, but are only indicated as needing to be completed, while a receiver makes an offer to complete the job, however, the job is not actually yet scheduled until the decision result with respect to the completion date offers of the receivers is further processed. Since the other independent claims (claims 15, 17, 21 and 22) recite limitations similar to those of claim 1, these claims are rejected for the same reasons.

In addition, appellant argues that the examiner bases the rejection on an in hindsight comparison of the various versions of the invention to specific disclosure

Art Unit: 3628

within Oliver and Nakaoka, and the examiner has failed to make a prima facie case of obviousness. However, as disclosed above in the preceding paragraphs, the references are properly combined, and the examiner has made a prima facie case of obviousness since these references are analogous. Due to the fact that both are related to project/task management, where task data related to a project is managed by project management software, prior art used is analogous art. "The analogous art test requires that the Board show that a reference is either in the field of the applicant's endeavor or is reasonably pertinent to the problem with which the inventor was concerned in order to rely on that reference as a basis for rejection. References are selected as being reasonably pertinent to the problem based on the judgment of a person having ordinary skill in the art. It is necessary to consider the reality of the circumstances, in other words, common sense in deciding in which fields a person of ordinary skill would reasonably be expected to look for a solution to the problem facing the inventor. Furthermore, the combination of elements from non-analogous sources, in a manner that reconstructs the applicant's invention only with the benefit of hindsight, is insufficient to present a prima facie case of obviousness". See *In re Oetiker*, 977 F.2d 1443, 1447. In this case, both references are in the field of the applicant's invention, which is job management. As stated above, the prior art used is related to project/task management, which is in the same field as job management. Therefore, prior art used is analogous art.

In addition, appellant argues that the present invention is about improving a manager's job of scheduling workers, and that prior art does not disclose this limitation.

However, this limitation is not taught by the present invention. For example, independent claim 1 discloses “a message generation unit generating a job completion date message to which attached is an entry space for entering a completion date offer indicating a completion date a receiver of a group who has been assigned to the job desires to agree to place in the completion date offer entry space in the message”, “an acquisition unit transmitting the job completion date messages to a plurality of receivers of the group and receiving each completion date offer that is entered by the receivers”, and “a control unit causing a terminal device of the transmitter apparatus at the transmitter of the message to display the completion date offers of the receivers together with a decision result with respect to the completion date offers of the receivers”. In this case, there is no indication that a manager's job is being improved. This claim merely recites steps for indicating jobs that need to be completed, and a receiver making offers to complete the jobs. Since the other independent claims (claims 15, 17, 21 and 22) recite limitations similar to those of claim 1, these claims are rejected for the same reasons.

Appellant proceeds to argue that prior art used does not disclose the limitations of independent claim 1, which is to display a decision result with respect to the completion date offers of the receivers” which is displayed “together” with the job completion date offers. However, in Oliver, percent complete indicates what percentage of the project is complete based on the ratio of earned value (also known as BCWP- Budget Cost of Work Performed) to the total project baseline. Oliver shows an example where each task will be worked on by a single person and that the person will devote

thirty hours per week to the project in Col. 4, lines 33-45. The example then goes on to show how the tasks are represented sequentially and reflected by graph. A determination is made that Task A will take 45 effort hours and consume 1.5 weeks, Task B will take 30 effort hours and consume one week, and Task C will start at the completion of Task B, take 60 effort hours, and be completed at the end of week three. This scheduling is shown by a Gantt chart and is done in the planning process, and as scheduled, constitutes the baseline for the project. Oliver explains that the baseline represents cost and effort expenditures with respect to time and activities in Col. 1, lines 42-44. Since the baseline is derived from the time it takes a person to complete several tasks, and since the baseline also represents both cost and effort expenditures with respect to time and activities, one of ordinary skill in the art would determine that the percent complete ratio in Oliver is directly related to the time it takes a person to complete tasks according to the baseline, which includes both cost and effort expenditures. Therefore, even though the percentage of the project completed is determined through the earned value, this earned value is derived from the time it takes a person to complete several tasks according to a baseline. Therefore Oliver's "ratio" is analogous to the "ratio" of the claimed invention. In addition, Oliver discloses that his invention calculates detailed and makes display readily accessible earned value information in col. 2, lines 52-54. In col. 2, lines 55-57, Oliver then goes on to show that the comparison of accomplished results to planned results are derived. This represents the decision result and offers being displayed together since Oliver's results are graphically represented.

Art Unit: 3628

For the reasons disclosed above, the remaining independent claims 15, 17, 21, 22, and 29 are still rejected for the same reasons, as well as all claims depending from these independent claims (Claims 2-4, 6-8, 16, 18, and 23).

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Akiba Robinson-Boyce

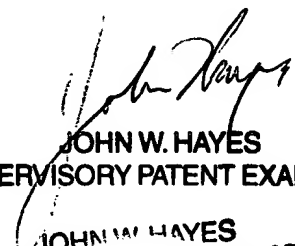


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